IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.974 OF 1994

Gautam Shriram Sukhdev ... Petitioner

V/s.

High Court of Judicature
at Bombay & Ors. ... Respondents

Ms.Priya Tendulkar for Petitioner
Mr.S.R. Nargolkar, AGP, for Respondent-State

CORAM: **V.G. PALSHIKAR &**
SMT.NISHITA MHATRE, JJ.

DATED: **JANUARY 17, 2005**

P.C.:

. By this petition, the Petitioner has challenged the denial of deemed date of promotion to him in the matter of promotion to the post of Senior Clerk. Grant of this promotion is covered by Rule/Para 580 of the Civil Manual which reads as under:

> "580. In the matter of promotions and confirmations, the District Judge should take into consideration the following principles.
>
> (i) All clerks who pass the Lower Standard Departmental Examination should be confirmed immediately in the existing vacancies. Such confirmations should not be deferred till the passing of the said examination by their seniors.
> (Vide High Court Circlar No.B-10135/50, datd the 5th December, 1950)
>
> (ii) The Junior Clerks who have passed the Lower Standard Departmental Examination and have thus

> qualified themselves for promotion to the post of senior clerks should be promoted to the post of senior clerks, 'subject to seniority' cum-fitness inter se, even though the junior clerks who have passed the Higher Standard Departmental Examination but junior in service are available.
>
> (iii) If a clerk who is junior in service has passed the Lower Standard Departmental Examination before a clerk who is senior in service, the clerk junior in service should be confirmed, if there is a permanent vacancy, in preference to the clerk senior in service who has not passed the examination."

2. The contention raised on behalf of the petitioner is that the only criteria as laid down by this Rule is passing of the departmental examination. The Petitioner had passed the departmental examination at an earlier point of time than Respondent Nos.3 to 8 and, therefore, as soon as the stoppage of promotion punishment was over he was liable to be considered in prior to Respondent Nos.3 to 8.

3. We are unable to accept this contention for the simple reason that the Rule cannot be so read. The Rule is very plain and simple which provides passing of lower standard of the examination as criteria for promotion to the post of Senior Clerk. Where the post of senior clerks are limited the vacancy may occur after a few years and the departmental examination for lower standard is held every year in such eventuality as and when the vacancy occurs the rule of seniority is given preference which is according to the service

jurisprudence. We, therefore, see no reason to interfere in this matter. Petition dismissed.